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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1032 OF 2015

Sachin Laxman Dandekar .. Appellant
(Ori. Accused No.2)

Vs.

The State of Maharashtra .. Respondent

WITH

CRIMINAL APPEAL NO. 1033 OF 2015

Laxman Dharma Dandekar .. Appellant
(Ori. Accused No.1)

Vs.

The State of Maharashtra .. Respondent

Ms. Prabha U. Badadare, Advocate for the Appellants.

**CORAM : A.S. GADKARI &
MILIND N. JADHAV, JJ.**

DATE : 03rd October 2022.

P.C.:

. The praecipe dated 03.10.2022 is filed by the learned Advocate for Appellants. Heard and perused record.

2. Ms. Prabha Badadare, learned Advocate on behalf of Appellant (Accused No.2) in Criminal Appeal No.1032 of 2015 has informed the Court that, Sachin Laxman Dandekar (Accused No.2) was arrested in present crime on 23.01.2011 and was granted bail in the present Appeal on 27.12.2016. He has undergone sentence for 5 years, 11 months and 4 days as on the date of pronouncement of present Judgment.

3. In the present case, the injury caused to Sakharam by blow of hammer was admittedly inflicted by Appellant (Accused No.1) – Laxman Dharma Dandekar on Sakharam's forehead. In so far as role of Accused No.2 is concerned it has come in evidence that he attributed with a role of holding Sakharam's hands behind his back at the time of incident. In view of the reasons given in our Judgment and Order dated 29.09.2022, taking into consideration the role of Accused No.2 in the present crime, we are of the considered opinion that Appellant Sachin be sentenced to the period which he has already undergone in jail.

4. Since Accused No.2 has already undergone the sentence of 5 years, 11 months and 4 days, we are inclined to sentenced him to the period he has already undergone in jail. Hence, the following order:-

(i) Paragraph No.19.1 be added after paragraph No.19 in the Judgment and Order dated 29.09.2022 as follows:-

“19.1. It is seen that in so far as Accused No.2 i.e. Appellant in Criminal Appeal No.1032 of 2015 is concerned his role is clearly and admittedly attributed to holding deceased Sakharam's hands behind his back and thereby abetting in the crime. It has come in evidence that Laxman D. Dandekar (Accused No.1) and Sachin Laxman Dandekar (Accused No.2) were both distinctly unhappy with Sakharam's affair with Jyotsna

and therefore the present incident as seen was a result of the said animosity. Appellant No.1 was arrested on 22.01.2011 and since then is incarcerated. In so far as Appellant No.2 is concerned, he was arrested on 23.01.2011 and was granted bail during the pendency of his Appeal on 27.12.2016. He has already undergone the sentence of 5 years, 11 months and 4 days as of today. However considering the totality of circumstances and taking into consideration the role of Accused No.2, we are inclined to sentence Accused No.2 for the period already undergone in jail by him.”

- (ii) Paragraph No.21(ii) of the Judgment and Order dated 29.09.2022 shall stand substituted as under:-

“21.

(i)

(ii) Accused No.1 i.e. Appellant in Criminal Appeal No.1033 of 2015 was arrested on 22.01.2011. Since he has undergone the sentence awarded hereinabove, he shall be released from prison forthwith unless required in any other case/cases.

In so far as Accused No.2 i.e. Appellant in Criminal Appeal No.1032 of 2015 is concerned he is sentenced to the period he has already undergone in

jail. Since he is already enlarged on bail, his bail bond stands cancelled.”

5. Judgment and Order dated 29.09.2022 be corrected accordingly and a corrected copy of Judgment and Order be uploaded on the official website of High Court accordingly.
6. Praecipe stands disposed of in the above terms.

[MILIND N. JADHAV, J.]

[A.S. GADKARI, J.]

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